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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,393	08/09/2001	Thomas D. Petite	081607-1180	5155
24504	7590	10/06/2003	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			WACHSMAN, HAL D	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/925,393

Applicant(s)

PETITE ET AL.

Examiner

Hal D Wachsman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. The IDS filed 6-25-03 cited U.S. Provisional Patent Application 60/224,065. However, the citation of this reference was not considered because it is not clear that the document provided, "Design Specifications For An Electric Meter Interface For StatSIGNAL Systems, Inc." is the cited provisional patent application, as there are no markings on the document, such as a stamped provisional application serial no., names of the inventors, filing date, etc. clearly showing this document to be provisional patent application 60/224,065.

2. Claims 1-34 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. As was already cited in paragraph 7 of the previous Office action, claim 34, line 10, cites "the unique identifier" however the antecedent basis is "unique address". The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-5, 9-13, 17-19, 22, 23, 26-30 and 34 are rejected under 35 U.S.C. 102(a) or 102(e) as being anticipated by Cunningham et al. (6,124,806).

As per claim 1, Cunningham et al.'806 (Abstract, figure 49) disclose "a data interface configured....of an electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "memory comprising a unique identifier...the electric meter". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "logic configured to receive the data....the transmit message comprising the unique identifier...the site controller may identify the electric meter...and notify the host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17) disclose "a wireless transceiver configured for communication...and receive messages from the wireless communication network". Cunningham et al. (Figure 30 – connection to

repeaters, figure 31, figure 49 (see telemetry network repeater and master telemetry network repeater), col. 20 lines 4-24) disclose "logic configured to receive a transmit message....and retransmit the received transmit message" (repeaters have the functionality of receiving transmitted messages from other communication devices and then repeating the message by retransmitting the received message).

As per claim 2, Cunningham et al.'806 (figures 20, 33, col. 12 lines 44-47) disclose the feature of this claim.

As per claim 3, Cunningham et al.'806 (figures 20, 22, 49, col. 6 lines 13-17) disclose the feature of this claim.

As per claim 4, Cunningham et al.'806 (col. 6 lines 13-18) disclose the feature of this claim.

As per claim 5, Cunningham et al.'806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the feature of this claim.

As per claim 9, Cunningham et al.'806 (Abstract, figure 49) disclose "an electric meter configured...electricity consumption of a load associated with the electric meter" and "a data interface configured....of an electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "memory comprising a unique identifier...the electric meter". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "logic configured to receive the data....the transmit message comprising the unique identifier...the site controller may identify the electric meter...and notify the host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17)

disclose "a wireless transceiver configured for communication....and receive messages from the wireless communication network". Cunningham et al. (Figure 30 – connection to repeaters, figure 31, figure 49 (see telemetry network repeater and master telemetry network repeater), col. 20 lines 4-24) disclose "logic configured to receive a transmit message....and retransmit the received transmit message" (repeaters have the functionality of receiving transmitted messages from other communication devices and then repeating the message by retransmitting the received message).

As per claim 10, Cunningham et al.'806 (figures 20, 33, col. 12 lines 44-47) disclose the feature of this claim.

As per claim 11, Cunningham et al.'806 (figures 20, 22, 49, col. 6 lines 13-17) disclose the feature of this claim.

As per claim 12, Cunningham et al.'806 (col. 6 lines 13-18) disclose the feature of this claim.

As per claim 13, Cunningham et al.'806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the feature of this claim.

As per claim 17, Cunningham et al.'806 (Abstract, figure 49) disclose "a means for receiving data related...of an electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for storing a unique identifier...the electric meter". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for receiving the data related to the electricity consumption of the electric meter...the transmit message comprising the unique identifier...such that the site controller...and notify the

host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17) disclose "a means for transmitting the transmit message to the wireless communication network". Cunningham et al. (Figure 30 – connection to repeaters, figure 31, figure 49 (see telemetry network repeater and master telemetry network repeater), col. 20 lines 4-24) disclose "a means for receiving a transmit message ...and retransmitting the received transmit message" (repeaters have the functionality of receiving transmitted messages from other communication devices and then repeating the message by retransmitting the received message).

As per claim 18, Cunningham et al.'806 (Abstract, figure 49) disclose the feature of this claim.

As per claim 19, Cunningham et al.'806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the feature of this claim.

As per claim 22, Cunningham et al.'806 (Abstract, figure 49) disclose "a means for measuring the electricity consumption of a load" and "a means for receiving data related...of the electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for storing a unique identifier...the electricity consumption of the load". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for receiving the data related to the electricity consumption of the electric meter...the transmit message comprising the unique identifier...such that the site controller...and notify the host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17) disclose "a wireless transceiver configured for communication....and

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receive messages from the wireless communication network”. Cunningham et al. (Figure 30 – connection to repeaters, figure 31, figure 49 (see telemetry network repeater and master telemetry network repeater), col. 20 lines 4-24) disclose “a means for receiving a transmit message ...and retransmitting the received transmit message” (repeaters have the functionality of receiving transmitted messages from other communication devices and then repeating the message by retransmitting the received message).

As per claim 23, Cunningham et al.’806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the feature of this claim.

As per claim 26, Cunningham et al.’806 (Abstract, figure 49) disclose “a plurality of electric meters....attached to the electric meter”. Cunningham et al. ‘806 (Abstract, figures 20, 21, 30, 31, 49, col. 13 lines 54-56, col. 14 lines 18-22, col. 20 lines 4-24) disclose “a plurality of communication devices....and generate a transmit message...the transmit message comprising the unique identifier....electricity consumption of the electric meter, each of the plurality of communications devices ...to receive a transmit message ...and retransmit the received transmit message” and the site controller as described in the last 5 lines of the claim.

As per claim 27, Cunningham et al.’806 (Abstract, figures 21, 49) disclose the features of this claim.

As per claim 28, Cunningham et al.’806 (see at least abstract) disclose the feature of this claim.

As per claims 29 and 30, Cunningham et al.'806 (see at least Abstract, figure 49) disclose the features of each of these claims.

As per claim 34, Cunningham et al.'806 (Abstract, figure 49) disclose "a plurality of means for measuring the electricity consumption of an attached load".
Cunningham et al. '806 (Abstract, figures 20, 21, 30, 31, 49, col. 13 lines 54-56, col. 14 lines 18-22, col. 20 lines 4-24) disclose "a plurality of communication means....and a means for generating a transmit message...the transmit message comprising the unique identifier....electricity consumption of the electric meter, each of the plurality of communication means...to receive a transmit message...and retransmit the received transmit message" and the means for receiving the transmit message as described in the last 4 lines of the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 6, 7, 14, 15, 20, 24, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. (6,124,806) in view of Russ et al. (6,061,604).

As per claims 6, 14, 20, 24 and 31, Russ et al. (figures 5, 6, col. 5 lines 22-34, 49-55) teach the features of each of these claims. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Russ et al. to the invention of Cunningham et al. '806 as specified above because in the monitoring of a network consisting of a variety of devices a means must be provided to distinguish messages being sent by one electric meter for example from another electric meter as well as to ensure that the sent message is properly routed to the correct destination.

As per claims 7, 15 and 32, Cunningham et al.'806 (figure 21, col. 14 lines 12-14, 24-26) disclose the features of each of these claims.

7. Claims 8, 16, 21, 25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. (6,124,806) in view of Russ et al. (6,061,604) as applied to claims 7, 15, 20, 24 and 32 above, and further in view of Cumeralto et al. (US 2002/0109607).

As per claims 8, 16, 21, 25 and 33, Cumeralto et al. (figures 4-9) teach the features of each of these claims. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Cumeralto et al. to the inventions of Cunningham et al. and Russ et al. as specified above because in network data transmission where a succession of messages may be sent, a means must be provided to distinguish one message from another, that is to know when one message ends and the next message begins.

8. The following references are cited as being art of additional general interest:

Ehrke et al. which disclose the use of a wireless transceiver for sending electric metering information onto a wide area network and Bush which discloses the use of relay stations for forwarding electrical demand information wirelessly.

9. Applicant's arguments filed 6-20-03 have been fully considered but they are not persuasive. As shown in the 35 U.S.C. 102 art rejections above, the feature added to the independent claims is disclosed in the Cunningham et al. reference. The Applicant argues on page 20 of the reply that "This repeater functionality is not disclosed, taught, or suggested by the prior art of record". The Examiner respectfully disagrees as not only was it disclosed by Cunningham et al. which was the main reference in the prior art of record as already shown above, but additional evidence that this repeater functionality was well known in the prior art, can also be found in the Cumeralto et al. reference (see paragraphs 0042 – 0045) which was also **one of the applied prior art references**, as well as the Glorioso et al. reference (see at least abstract) which was cited as being art of general interest in the previous Office action.

10. No claims are allowed.


11. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
September 9, 2003



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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Hal D Wachsman
Primary Examiner
Art Unit: 2857